

February 1, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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Mr. David Anderson
Chief Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR99-0285

Dear Mr. Anderson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114606.

The Texas Education Agency ("TEA") received a request for a copy of a written complaint that initiated an investigation. You submitted to this office the responsive records, which you contend are excepted from disclosure on the basis of sections 552.108 and 552.116.

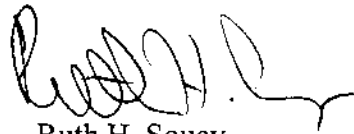
Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Section 552.108(a)(1) section may be invoked by the proper custodian of information relating to an ongoing investigation or prosecution of criminal conduct. The exception is applicable even if the custodian is not a law enforcement agency if the investigation may lead to the filing of criminal charges. Open Records Decision No. 474 at 4-5 (1987). When an agency claims the exception, the pertinent question is if release of the information would undermine law enforcement or the investigation and prosecution of crime. Open Records Decision No. 434 at 2 (1986).

You state that the TEA has been contacted by the Burnet County District Attorney's Office and asked not to release any information concerning this investigation, because the district attorney's office is conducting its own criminal investigation into the matter. It is our understanding that the complaint and investigation information held by TEA is or will be provided to the district attorney's office in connection with the criminal investigation. In this situation, we agree that

you have shown the applicability of section 552.108(a)(1) to the requested records. The information at issue thus may be withheld from disclosure.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 121692

Enclosures: Submitted documents

cc: Mr. Neal W. Adams
Adams, Lynch & Loftin, P.C.
1903 Central Drive, Suite 400
Bedford, Texas 76021-5872
(w/o enclosures)

¹Because the information at issue may be withheld from disclosure on the basis of section 552.108, we need not address your other arguments against disclosure.